



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Office Consolidation Purchasing By-law 19-2018

To repeal Purchasing By-law 310-2015, as amended, and replace with this updated By-law to provide for the Procurement of goods, services and construction.

WHEREAS the *Municipal Act, 2001*, s.270 (1), requires Ontario municipalities to adopt a policy for the procurement of goods and services;

WHEREAS the *Canadian Free Trade Agreement (CFTA)*, the *Comprehensive Economic and Trade Agreement (CETA)* and the *Ontario-Quebec Trade and Cooperation Agreement (OQTCA)* apply to the Procurement of goods and services by the Corporation;

WHEREAS this By-law establishes the authority, policies and procedures by which goods, services and construction will be purchased and disposed of for the purpose of the City;

WHEREAS on December 9, 2015, Council enacted By-law 310-2015 to repeal and replace Purchasing By-law 35-2012, for the Procurement of goods and services;

WHEREAS Council wishes to repeal By-law 310-2015; and,

NOW THEREFORE the Council of the Corporation hereby ENACTS as follows:

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1.0 OBJECTIVES

- 1.1 Promote Procurement activities and decisions which are consistent with the strategic, financial, social and environmental objectives of the City;
- 1.2 Provide professional and ethical leadership through the provision of fair and transparent Procurement Processes;
- 1.3 Promote the most cost effective and efficient use of City funds by achieving best value for money; and
- 1.4 Maintain trust and confidence in the stewardship of public funds.

2.0 PRINCIPLES

2.1 Non-Discrimination

The City will not adopt Discriminatory procurement practices in accordance with the requirements of any applicable trade agreements, as set out in Schedule E.

2.2 Transparency

The City will ensure this By-law and Supporting Policies and Procedures are made readily accessible to the public.

2.3 Exceptions

2.3.1 The City may exclude a Procurement from a competitive Procurement Process in the circumstances as set out in Schedule C.

2.3.2 Where it is known before commencement that a Procurement may not comply with this By-law in some respect, the Procurement shall not be commenced unless the Procurement has been authorized by Council.

2.3.3 Procurements that have commenced and which subsequently are found not to comply with this By-law in some respect must be authorized as follows:

- a) A Procurement with a value of less than \$100,000 shall not continue unless authorized by the Purchasing Agent and the requisitioning Department Head.
- b) A Procurement with a value of \$100,000 or greater shall not continue unless authorized by the Purchasing Agent, the requisitioning Department Head and Chief Administrative Officer.

2.4 Non-Application

The By-law does not apply to the exclusions as set out in Schedule D. Agreements regarding the purchase of goods or services where this By-law does not apply, must be approved in accordance with the applicable By-law, Policy, Administrative Directive or Standard Operating Procedure.

2.5 No Local Preference

2.5.1 In the evaluation of Bids or award of contracts, the City shall not impose or consider local content or other economic benefits criteria that are designed to favour:

- a) The goods or services of a particular Province or region, including goods and services included in a construction contract; or
- b) The suppliers of a particular Province or region of such goods or services; and

2.5.2 The City may accord a preference for Canadian value-added, in accordance with the applicable trade agreements and Supporting Policies and Procedures.

2.6 Complaints and Disputes Resolution

Objective and timely consideration will be given to any Bid complaint submitted to the City in accordance with Supporting Policies and Procedures. Any such consideration shall not result in undue discrimination against a Vendor resulting in limiting the Vendor's participation in ongoing or future Procurements.

2.7 Language

The City's Procurement Processes will be conducted in the English language and where required by legislation or by agreement with the Federal Government, the Government of Ontario or an Ontario municipality, also in the French language.

2.8 Confidentiality

2.8.1 Nothing in this By-law requires the City to breach confidentiality obligations imposed by law or to compromise security concerns or commercially sensitive or proprietary information identified by a Vendor in its procurement documents.

2.8.2 Notwithstanding Section 2.8.1, information collected by the City is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M-26.

2.9 Sustainable and Ethical Procurement

2.9.1 The City supports the acquisition of goods, services and construction from Vendors who conduct their business in a sustainable and ethical manner. The City acknowledges its responsibility to conduct its Procurements in a socially and environmentally responsible manner. This includes zero-tolerance of child labour or involuntary labour. Vendors are required to adhere to the core international labour standards of the International Labour Organization that support the Universal Declaration of Human Rights.

2.9.2 The City encourages the Procurement of goods, services and construction with due regard to protect natural ecosystems and resources, and the human and built communities. Vendors may be required to supply goods, services and construction made by methods resulting in the least damage to the environment, and/or supply goods, services and construction incorporating recycled materials where practical as specified in procurement documents.

3.0 COUNCIL

Prior to the commencement of a Procurement Process, being the date Procurements are advertised or solicited, Council shall authorize the commencement of Procurements with an estimated value of \$1,000,000 or greater and Procurements less than \$1,000,000 that are deemed to be of significant risk, involve security concerns or significant community interest as recommended by the requisitioning Department Head and/or the Purchasing Agent.

3.1 In keeping with municipal procurement best practices, the Mayor and Members of Council shall have no involvement in specific Procurements, including not seeing any related documents or receiving any related information from the time those Procurements have been advertised or solicited until the Contract has been entered into.

3.2 The Mayor and Members of Council who receive inquiries from Bidders related to any specific Procurement are required to advise the Bidders(s) to communicate with the contact person listed in the procurement document.

- 3.3** For Procurements described in Section 3.0, during the months where there is no meeting of Council or if Council is in a lame duck period, authority shall be delegated to Chief Administrative Officer. Any exercise of such delegated authority shall be reported to Council as information only, in accordance with Section 11.0.

4.0 PURCHASING AGENT AUTHORITY

The Purchasing Agent shall:

- a) Act on behalf of or in consultation with the requisitioning Department Head to authorize the use of the most appropriate Procurement Process;
- b) Execute procurement documents including Contracts, Purchase Orders and all other documents related to specific procurements under the Corporate Seal on behalf of the Mayor and the Clerk;
- c) Ensure that all Contracts and related documents executed under Section 4.0, b) are Approved as to Content by the appropriate requisitioning Department Head; and
- d) Ensure that all Contracts and related documents executed under Section 4.0, b) are Approved as to Form by the City Solicitor.

5.0 RESPONSIBILITY OF THE PURCHASING AGENT

The Purchasing Agent is responsible for the Purchasing function of the City including:

- a) Acquisition of goods, services and construction required by the City excluding Real Property;
- b) Disposal of assets excluding Real Property;
- c) Determining the appropriate Procurement Process based on the Total Procurement Value provided by the requisitioning Department;
- d) Delegation of Purchasing Agent authority where appropriate;
- e) Disqualification of Vendors from participating in Procurements in accordance with the Supporting Policies and Procedures; and
- f) Reporting to Council as required in Section 11.0.

6.0 RESPONSIBILITY OF THE DEPARTMENT HEAD

The Department Head is responsible for:

- a) Ensuring compliance with this By-law and Supporting Policies and Procedures with respect to the activities of their Department;
- b) Obtaining Council approval to proceed with Procurement in accordance with Section 2.3.3.;
- c) Delegating appropriate authority to employees within their Department as set out in this By-law and Supporting Policies and Procedures; and
- d) Reporting to Council as required in Section 3.0.

7.0 GENERAL AUTHORITY

- 7.1** The required goods, services and construction have been requisitioned in accordance with this By-law and the Supporting Policies and Procedures.
- 7.2** The Procurement has been approved by the appropriate level of authority as set out in Schedule B.
- 7.3** For Procurements confidential in nature, the Chief Administrative Officer or the Commissioner, Corporate Services may act as the Purchasing Agent.

- 7.4 The Purchasing Agent is authorized to proceed with the acceptance of the next Compliant Bid, and so on as necessary, should a Bidder fail to enter into a Contract or default on its contractual obligations.
- 7.5 The Purchasing Agent may cancel any Procurement in consultation with the requisitioning Department Head.
- 7.6 The Purchasing Agent, in consultation with the requisitioning Department Head, may cancel or negotiate any Procurement, where Bids exceed the budget and additional funds are not available.

8.0 **PROCUREMENT**

Unless otherwise provided in this By-law, all Procurements having a price or value within each of the dollar ranges set out in this By-law shall be purchased as set out in Schedule B and in accordance with Supporting Policies and Procedures.

8.1 **Direct Purchase (Up to and including \$25,000)**

Direct Purchases are delegated to Departments.

8.2 **Invitational Procurement (Greater than \$25,000 to less than \$100,000)**

Invitational Procurements may be delegated to Departments by the Purchasing Agent to conduct the Procurement Process.

8.3 **Public Procurement (\$100,000 & Greater)**

Public Procurement is conducted by Purchasing.

8.4 **Limited Tendering (Greater than \$25,000)**

Departments must provide the Purchasing Agent with valid justification in accordance with the conditions as set out in Schedule C.

8.5 **Emergency Purchase**

Emergency Purchases must be procured in accordance with Supporting Policies and Procedures.

8.6 **No Cost Procurement**

8.6.1 A “no cost” procurement is a Procurement where the City will not bear any cost. These types of procurements include:

- a) Revenue generating opportunities, and
- b) Cost pass through to a third party.

8.6.2 “No cost” procurements must be acquired in the same manner and using the same Procurement Process and corresponding approval requirements as Procurements that have a cost to the City, depending on the value of the no cost procurement.

8.7 **Co-operative Purchasing**

The Purchasing Agent may make arrangements with one or more public bodies for Co-operative Purchasing where there are economic advantages in doing so, provided that if the Procurement is to be conducted by other public bodies, the Purchasing Agent determines that:

- a) The method of Procurement used by the other public body is a competitive method consistent with that as set out in this By-law; and
- b) The awarding, reporting and execution of contracts resulting from the co-operative Procurement is consistent with that as set out in this By-law and Supporting Policies and Procedures.

8.8 Unsolicited Proposal

Unsolicited Proposals received by the City from a Vendor who has approached the City to advise the City of their ability or desire to undertake City requirements shall be reviewed by the Purchasing Agent and Department Head to determine if it is in the best interest of the City to initiate a Procurement Process as set out in this By-law.

8.9 Tied Bids

In the case of tied Bids, the successful Bidder will be determined by a coin toss, conducted by the Purchasing Agent in accordance with the Supporting Policies and Procedures.

8.10 Use of Formal Agreement

8.10.1 Formal agreements shall be used in conjunction with a Purchase Order, for complex requirements, which may contain terms and conditions other than those of the City's standard terms and conditions.

8.10.2 The Purchasing Agent in consultation with the requisitioning Department Head shall determine if a formal agreement is required.

8.10.3 Formal agreements and associated contracts shall be Approved as to Content, Approved as to Form and executed in accordance with the Supporting Policies and Procedures.

8.10.4 When a formal agreement is required, the Purchasing Agent shall issue a Purchase Order incorporating the formal agreement.

8.11 Communication During a Procurement

A Procurement Process begins when the Procurement is advertised or solicited (Start Date) and ends when The City signs an agreement and/or issues a Purchase Order with a Vendor (End Date) or when the Procurement Process is cancelled. Throughout the Procurement Process, all communications with Vendors involved in the process must occur formally, through the contact person identified in the procurement documents.

8.12 Disposal of Assets

The Department Head shall declare surplus, obsolete or non-repairable assets as surplus to the Purchasing Agent for disposal in accordance with Supporting Policies and Procedures. The Purchasing Agent may redeploy such assets to other City Departments or if no longer useful for City purposes, arrange for their disposal at the highest return or the reduction or avoidance of net cost from the disposition.

9.0 FAIRNESS MONITOR

The City may elect to utilize a fairness monitoring process for specific procurements, and may engage a fairness monitor as an independent third party to observe all or part of a Procurement Process, to provide related feedback on fairness issues to the Purchasing Agent and the requisitioning Department Head, or to Council for Procurements in excess of \$1,000,000 to provide an unbiased opinion on the fairness and transparency of the process.

10.0 CODE OF CONDUCT AND CONFLICT OF INTEREST

10.1 All Procurements of goods, services and construction described in this By-law are subject to the City of Brampton Policies and applicable law, including the following:

- a) The Employee Code of Conduct Policy;
- b) The Employee Conflict of Interest Policy;
- c) The Code of Conduct for the Members of Council of the City of Brampton;
- d) The *Municipal Conflict of Interest Act*; and
- e) The *Municipal Act, 2001*.

10.2 The submission of all bids must include a declaration by the Bidder that there is no actual, potential or perceived conflict of interest in that Bidder submitting a Bid in respect of that Procurement Process or where there is an actual, potential or perceived conflict of interest, the Bidder must provide details of same. Where a Bidder submits details in respect of an actual, potential or perceived conflict of interest, the Purchasing Agent shall review details of same and, in consultation with the City Solicitor, determine if the actual, potential or perceived conflict of interest serves to disqualify that Bidder from further participation in the Procurement Process.

11.0 REPORTING

The Purchasing Agent shall report quarterly to Council providing a summary of Purchasing activities including:

- a) Contract awards with a value of \$100,000 and over;
- b) Contract Extensions with a value of \$100,000 and over;
- c) Exceptions for Sections 2.3.2 and 2.3.3;
- d) Emergency Purchases; and
- e) Disposal of assets.

12.0 PROHIBITIONS AND COMPLIANCE

12.1 All employees and elected officials of the City are required to adhere to the Purchasing By-law and Supporting Policies and Procedures related to the acquisition of goods, services and construction for the City.

12.2 Any employee who knowingly contravenes this By-law commits an act of misconduct is liable to disciplinary action.

12.3 No acquisition of goods, services or construction or the disposal of assets shall be made where the quantity or delivery is divided or in any other manner arranged so that the price or value of the goods and services to be acquired or disposed of is artificially reduced to circumvent the requirements of this By-law.

12.4 Vendors shall not be permitted to Bid on a Procurement that they have developed the specification for, unless approved in advance by the Purchasing Agent.

12.5 All employees and elected officials will not acquire or accumulate, either directly or indirectly, where the benefit does not accrue to the City, points through loyalty programs such as Air Miles, Aeroplan, etc. when making purchases on behalf of or for the City.

12.6 No goods, services or construction shall be requisitioned by any employee or the Mayor or Councillor unless:

- a) The goods, services or construction are legitimately required for the purposes of the City or any other local Board or other Agency on whose behalf the purchase is being undertaken;
- b) The funds for the Procurement are available with an approved budget or the request to purchase is expressly made subject to funding approval of the City or any other local Board or other Agency on whose behalf this is being made;
- c) No employee or the Mayor or Councillor shall be permitted to purchase any asset to be disposed of except by successfully bidding on the same at a public auction or by sealed Bid but in no case if the duties of that employee or the Mayor or Councillor include making decisions regarding the disposal of such assets or

activities relating to the conduct of the disposal process unless specifically provided by another Council Resolution;

- d) No employee or the Mayor or Councillor shall knowingly cause or permit anything to be done or communicated to anyone which is likely to cause any potential Bidder to have an unfair advantage or disadvantage in obtaining a Contract with the City, or any other municipality, local board or public body involved in the Procurement; and
- e) No employee or the Mayor or Councillor shall knowingly cause or permit anything to be done which will jeopardize the legal validity or fairness of any Procurement under this By-law which is likely to subject the City to any claim, demand, action or proceeding as a result of such act or omission.

13.0 ADMINISTRATIVE PROCEDURES

- 13.1** In the event of any conflict between this By-law and any applicable legislation or trade agreement to which the City is bound, the more restrictive provision shall apply.
- 13.2** If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.
- 13.3** The Purchasing Agent is responsible for the administration of this By-law and is authorized to recommend changes to this By-law, and where permitted by law to do so, may create, amend and delete Supporting Policies and Procedures.

14.0 APPEAL AND EFFECTIVE DATE

- 14.1** Purchasing By-law 310-2015, as amended is hereby repealed; and
- 14.2** This By-law is effective as of March 1, 2018.

ENACTED and PASSED this 21st day of February, 2018.

THE CORPORATION OF THE CITY OF BRAMPTON
Original signed by:
Linda Jeffrey – Mayor
Peter Fay – City Clerk

SCHEDULE A

Definitions

For the purposes of this By-law, the following terms shall have the following meanings:

“Approved as to Content” means that the content, substance and material dealt within the document are approved as set out in this By-law;

“Approved as to Form” means that the document is approved for execution in the correct form, style and procedures of the City as set out in this By-law;

“Bid” means an offer to supply goods, services or construction in a Procurement Process;

“Bidder” means any proponent, respondent or other person or entity who has obtained official procurement documents for the purpose of submitting or who has submitted a Bid in response to a Procurement Process;

“Buying Group” means a group of two or more members which combines the Purchasing requirements and activities of the members of the group into one joint Procurement Process.

“Chief Administrative Officer” means the highest ranking administrator of the Corporation and includes an acting Chief Administrative Officer who has all the authority and responsibility of the Chief Administrative Officer for the duration of the acting designation;

“Compliant Bid” means a Bid that in accordance with this By-law and the City’s policies and procedures:

- has been found to have met specific mandatory requirements;
- does not give rise to any conflicts of interest;
- has not been submitted by a Vendor ineligible to bid; and
- has not been disqualified and rejected.

“Confidential Information” means any and all information and materials, which:

- are designated as confidential at the time of disclosure (in a manner reflecting the manner in which they are disclosed); or
- a reasonable person, having regard to the circumstances, would regard as confidential (including Personal Information). “Personal Information” means any personal information which is required to be protected pursuant to MFIPPA or any laws (including regulations and common law) pertaining to the protection of personal, healthcare or insurance information.

“Contract” means a formal legal agreement between two or more parties with binding legal and moral implications whereby goods and/or services are exchanged for money or other consideration;

“Contract Extension” means an amendment increasing the value, changing the scope of work or extending the term, where the terms of the Contract do not include the option for such amendment;

“Co-operative Purchasing” means a competitive Procurement Process that is conducted by one public body or Buying Group on behalf of one or more public bodies in order to obtain the benefits of volume purchases and administrative efficiencies;

“Council” means the Council of The Corporation of the City of Brampton;

“Department” means a Department with a Council appointed Commissioner or officer as the Department Head and includes the General Manager of Transit and Fire Chief.

“Department Head” means the individual accountable for departmental operations and includes an acting Department Head who has all the authority and responsibility of the Department Head for the duration of the acting designation and delegated authority as set out in the Administrative Directive, Delegation of Department Head Purchasing Authority;

“Deputy Purchasing Agent” means the staff person so designated who has all the powers and duties of the Purchasing Agent;

“Direct Purchase” means the purchase of goods, services or construction with a Total Procurement Value not exceeding \$25,000;

“Disposal” means the sale, exchange, transfer, destruction or donation of assets in accordance with the Supporting Policies and Procedures;

“Emergency” means an unforeseeable, serious emergency situation where the immediate purchase of goods, services or construction is essential in order to maintain a required service or to prevent danger to life, health or property within the City of Brampton;

“Emergency Purchase” means a Procurement Process where the usual competitive process is suspended due to the prevailing Emergency circumstances;

“Irregular Result” means a result in a Procurement in which:

- another Procurement Process should have been conducted based on the bid results;
- award of a Contract to the Bidder, as a result of the Procurement Process, does not represent best value and is not in the best interest of the City; or
- Council authority to commence Procurement should have been obtained;

“Limited Tendering (previously known as Single/Sole Source)” means a Procurement

Process where negotiations are entered into with one or more than one Vendor based on the conditions as set out in Schedule C to this By-law and includes Direct Negotiations as a Procurement Process where there is no competitive process;

“Mayor” means the elected Mayor of the City or the person duly appointed to act in the place of the Mayor;

“Procurement” means acquiring goods, services, construction or any legal or equitable right, title or interest, in goods, services, construction and includes the lease of goods, services and “purchased,” “acquisition”, “procure”, “buy” shall have similar meanings;

“Procurement Complaints and Disputes Resolution Committee” means a committee of City staff as described in the Procurement Complaints and Disputes Resolution Policy and Procedures

“Procurement Process” means all methods of competitive and non-competitive Procurement;

“Purchase Order” means the legal document which is the City’s commitment to the Vendor for the purchase of goods, services or construction at an agreed upon price, terms, conditions and delivery specified on the order;

“Purchasing” means central purchasing within Corporate Services of the City authorized to perform the purchasing activities on behalf of all Departments;

“Purchasing Agent” means the staff person so designated who is vested with such authorities, duties and responsibilities as are prescribed by this By-law, and includes any other staff person to whom such authority is delegated pursuant to Section 5.0, d);

“Request for Expression of Interest” means a Procurement Process used to gather information on Vendor interest in an opportunity or information on Vendor capabilities/qualifications;

“Request for Information” means a Procurement Process to gather service or product information from Vendors;

“Request for Prequalification” means a Procurement Process used to gather information on Vendor capabilities and qualifications, with the intention of creating a list of pre-qualified Vendors;

“Request for Proposal” means a Procurement Process where a need is identified and Bidders propose solutions evaluated on technical and financial criteria;

“Request for Quotation” means an invitational Procurement Process where prices on specific goods, services or construction are requested from selected Bidders;

“Supporting Policies and Procedures” means policies and procedures to support the objectives, principles and application of this By-law;

“Tender” means a public Procurement Process where prices on specific goods, services or construction are requested;

“Tied Bids” means two or more Compliant Bids which score equally after evaluation, or otherwise are equal, and which are the lowest or best Compliant Bids received in accordance with Supporting Policies and Procedures;

“Total Procurement Value” means the total estimated value of the Procurement over its entire duration, including all renewal options, taking into account; premiums, fees, commissions, interest, exclusive of taxes; and

“Vendor” means an individual or organization that may offer goods, services or construction to the City.

SCHEDULE B

Award Authority

DOLLAR RANGES	PROCUREMENT PROCESS	AUTHORITY
≤ \$25,000	Direct Purchase	Department Head
> \$25,000 to < \$100,000	Request for Proposal (Invitational) Request for Quotation (Invitational) Limited Tendering Contract Extension (Cumulative) Irregular Result	Purchasing Agent and Department Head
≥ \$100,000 to < \$1 million	Request for Proposal (Public) Tender (Public) Limited Tendering Contract Extension (Cumulative) Irregular Result	Purchasing Agent and Department Head
≥ \$1 million	Request for Proposal (Public) Tender (Public) Limited Tendering Contract Extension (Cumulative) Irregular Result	Purchasing Agent, Department Head and Chief Administrative Officer
≤ \$25,000	Emergency Purchase	Department Head
Any Dollar Value	Disposal of Assets	Purchasing Agent and Department Head

This should be read in conjunction with the Administrative Directive, Delegation of Department Head Purchasing Authority.

SCHEDULE C

Limited Tendering

A non-competitive Procurement is an exception to the competitive Procurement Process that may be undertaken where both the proposed non-competitive Procurement and the particular Vendor can be justified in good faith, based on one or more of the following:

1.
 - a) No Bids were submitted;
 - b) No Bids conforming to the essential requirements of the procurement document were submitted;
 - c) No Bidders satisfied the conditions for participation; or
 - d) The submitted Bids were collusive.
2. If goods or services can be supplied only by a particular Vendor and no reasonable alternative or substitute goods or services exist for the following reasons:
 - a) The protection of patents, copyrights, or other exclusive rights; or
 - b) Due to an absence of competition for technical reasons.
3. For additional goods or services from the original Vendor that were not included in the initial Procurement, if a change of Vendor for such additional goods or services;
 - a) Cannot be made for economic or technical reasons; and
 - b) Would cause significant inconvenience or substantial duplication of costs for the City;
4. If strictly necessary and for reasons of urgency brought about by events unforeseeable by the City, the goods or services could not be obtained in time using a competitive process;
5. For goods purchased on a commodity market;
6. If a procuring entity procures a prototype or a first good or service that is developed in the course of a contract for research, experiment, study, or original development;
7. The goods or services are purchased under circumstances which are exceptionally advantageous to the City, such as in the case of a bankruptcy or receivership;
8. If a contract is awarded to a winner of a design contest;
9. If goods or services regarding matters of a confidential or privileged nature are to be purchased and disclosure through a competitive process could reasonably be expected to compromise confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest;
10. The supply of goods and services is controlled by a Vendor that is a statutory monopoly;
11. To ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;
12. Work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work; or
13. Work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor.

Any amendments to applicable legislation or trade agreement to which the City is bound which expand or limit the permitted exceptions set out in this Schedule C shall apply and this By-law shall be deemed to have been amended accordingly.

SCHEDULE D
Non-Application

The following circumstances do not require a Procurement Process under Section 2.4 of this By-law. The purchasing and reporting methods described in this By-law do not apply to the following items.

1. Public employment contracts;
2. Non-legally binding agreements;
3. Any forms of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
4. A contract awarded under a cooperation agreement between a party and an international cooperation organization if the Procurement is financed, in whole or in part, by the organization, only to the extent that the agreement includes rules for awarding contracts that differ from the obligations of this By-law;
5. Acquisitions or rental of land, existing buildings, or other immovable property, or the rights thereon;
6. Measures necessary to protect intellectual property, provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or are a disguised restriction on trade;
7. Procurement or acquisition of:
 - a) fiscal agency or depository services;
 - b) liquidation and management services for regulated financial institutions; or
 - c) services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
8. Procurement of:
 - a) financial services respecting the management of government financial assets and liabilities, including ancillary advisory and information services, whether or not delivered by a financial institution;
 - b) health services or social services;
 - c) services that may, under applicable law, only be provided by licensed lawyers or notaries; or
 - d) services of expert witnesses or factual witnesses used in court or legal proceedings.
9. Procurement of goods or services:
 - a) financed primarily from donations that require the Procurement to be conducted in a manner inconsistent with this By-law;
 - b) by a procuring entity on behalf of an entity not covered by this By-law;
 - c) between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise;
 - d) by non-governmental bodies that exercise governmental authority delegated to them;
 - e) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;
 - f) under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by this By-law that contains provisions inconsistent with this By-law;
 - g) conducted for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of goods, services, or suppliers; or
 - h) conducted under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint

- i) implementation by the signatory countries of a project or under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance, if the procedure or condition would be inconsistent with this Chapter.
- j) provided only by the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, accountants, land surveyors;
- k) for a work of art;
- l) for entertainment, cultural or artistic services;
- m) for subscriptions to newspapers, magazines or other periodicals;
- n) for memberships in professional and business related associations;
- o) for training and education including conferences, seminars, courses, conventions, workshops, staff training and staff development;
- p) for travel and entertainment expenses; or
- q) for a particular brand of goods or services that are intended solely for resale to the public and no other brand meets the City's program objectives nor is the brand available from any other source.

SCHEDULE E
Discriminatory Practices

Discriminatory Procurement practices which are not allowed under this By-law include:

1. Registration requirements and restrictions on calls for Bids based upon the location of a Vendor and its subcontractors, or the place where the goods or services are produced and, generally, pre-qualification procedures that discriminate between Vendors by Province of origin;
2. The biasing of specifications in favour of, or against, a particular good or service for the purpose of circumventing this By-law;
3. The timing of Bid opening and closing dates for the purpose of preventing one or more qualified Vendors from submitting Bids;
4. The specification of quantities and delivery schedules of a scale and frequency that may reasonably be judged as deliberately designed to prevent qualified Vendors from meeting the requirements of the Procurement;
5. The division of required quantities in a manner designed to circumvent this By-law;
6. The consideration, in evaluating Bids, of provincial content or economic benefits that favour a Vendor or good of one Province over another;
7. The giving of preference to selected Bids after Bids have been submitted and without any mention of the intended preference in the procurement documents;
8. The use of price discounts or preferential margins to favour Vendors of one Province;
9. The unjustifiable exclusion of a qualified Vendor from bidding; and/or
10. The requirement that a construction contractor or subcontractor use workers, materials or Vendors of materials originating from the Province where the work is being carried out.